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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

EXAMINER

HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,113

Applicant(s)

CUDD ET AL.

Examiner

Olga Hernandez

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

RD

DETAILED ACTION

Applicant has cancelled claims 1-50.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 51-56, 58-64, 66-74, 76-79 and 80 are rejected under 35 U.S.C. 102(e) as being anticipated by Krishnaswamy (6,909,708).

As per claims 51, 61, 63, 72, 73, 74 and 80, Krishnaswamy discloses maintaining a proxy list comprising an address for at least one proxy server client at which requested data is cached; selecting a first address from the proxy list; pinging a first proxy server client corresponding to the selected first address to assess a connection speed to the first proxy server client; and downloading requested data from the local cache of the first proxy server client if the connection speed to the first proxy server client meets a predetermined criterion (figures 69W, 69X, 110, column 24, lines 35-56, column 27, lines 31-35, column 31, lines 39-41, column 60, lines 3-6, column 63, lines 6-7, column 64, lines 58-64, column 80, lines 65-67, column 81, lines 1-15, column 91, lines 34-42, column 104, lines 22-67, column 105, lines 36-49).

As per claims 52, 59, 64, Krishnaswamy discloses selecting a second address from the proxy list; pinging a second proxy server client corresponding to the selected second address to assess a connection speed to the second proxy server client; comparing the connection speed to the first proxy server client and the connection speed to the second proxy server client; and downloading requested data from the local cache of the proxy server client with the fastest connection speed (column 8, lines 55-57, column 24, lines 35-56, column 27, lines 31-35, column 31, lines 39-41, column 60, lines 3-6, column 63, lines 6-7, column 64, lines 58-64, column 80, lines 65-67, column 81, lines 1-15, column 91, lines 34-42, column 104, lines 22-67, column 105, lines 36-49).

As per claim 53, Krishnaswamy discloses pinging a second proxy server client whose address is not on the proxy list to assess a connection speed to the second proxy server client; and downloading requested data from the local cache of the second proxy server client if the connection speed to the second proxy server client meets a target connection speed (column 106).

As per claims 54, 66 and 67, Krishnaswamy discloses maintaining a look-up table which correlates items of data with addresses of one or more proxy server clients at which the items of data are cached; assessing connection speeds to the one or more proxy server clients whose addresses are contained in the look-up table; and discarding or demoting the addresses of proxy server clients having relatively slow connection speeds (column 15, lines 57-64, column 24, lines 35-67, column 25, lines 10-21, column 27, lines 31-35, column 31, lines 39-41, column 60, lines 3-6, column 63, lines 6-7,

column 64, lines 58-64, column 80, lines 65-67, column 81, lines 1-15, column 91, lines 34-42, column 104, lines 22-67, column 105, lines 36-49).

As per claims 55, 76 and 77, Krishnaswamy discloses pinging the one or more proxy server clients whose addresses are contained in the look-up table to assess connection speeds; comparing the connection speeds of the pinged proxy server clients with each other or with a target threshold speed; and discarding or demoting the addresses of proxy server clients having relatively slow connection speeds or that do not meet the target threshold speed (column 104, lines 52-67, column 105, lines 1-49).

As per claims 56, 68 and 78, Krishnaswamy discloses receiving status change reports from one or more proxy server client at which the item data are cached (column 41, lines 4-25).

As per claim 58, Krishnaswamy discloses proxy list further comprises an address of the server (column 24, figures 19, 23, 81).

As per claims 60 and 71, Krishnaswamy discloses the Internet, the at least one proxy server client comprises a user terminal running a web browser, and the respective local cache is associated with the web browser on the user terminal (figures 19d, 19e, 19f, 23, 81).

As per claims 62, 70, 69 and 79, Krishnaswamy discloses monitoring workload of one or more proxy server clients; and contacting only proxy server clients whose workload meets a workload limit (column 45, lines 4-10, column 58, lines 22-23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 57, 65, 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnaswamy (6,909,708) in view of Kilkki (6,047,326).

Krishnaswamy does not teach the predetermined criterion comprises a target connection speed. However, Kilkki teaches the target connection speed (abstract). Thus, it would have been obvious to one skilled in the art to combine Krishnaswamy's invention with Kilkki's target connection speed in order to accepted or discarded based on the priority level of the information elements and the status of one or more buffers at the core node.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is 571-272-7144. The examiner can normally be reached on Mon-Thu 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Olga Hernandez', with a stylized, cursive script.

Olga Hernandez
Examiner
Art Unit 2144